

**Control No. 2005014**

Recording Requested by  
and when Recorded, return to:

**CITY OF MILPITAS**  
**455 E. CALAVERAS BOULEVARD**  
**MILPITAS, CA 95035-5479**  
Attn: City Clerk

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**CERTIFICATE OF COMPLIANCE No. P-CC2005-1**

Lands of: **Phyllis S. Anderson and Cracolice Properties, LLC, a California  
Limited Liability Company**

Notice is hereby given pursuant to Section 66499.35 of the Government Code of the State of California that the real property composed of five (5) parcels, known as Assessor's Parcel Number 29-02-015, described in "Exhibit A" attached hereto and made part hereof, complies with the Subdivision Map Act, and all local ordinances enacted pursuant thereof.

The following lots as shown on the map attached as Exhibit "A" shall be subject to the following:

Parcels 1, 2 and 5 shall be subject to the conditions below:

1. Prior to or at the time of any permit issuance for any of Parcels 1, 2, or 5, the developer shall have the property surveyed and monumented by a Registered Land Surveyor (or qualified Civil Engineer). A record of survey bearing a Certificate of Compliance, signed by the City Engineer, shall be filed with the County Surveyor. Recordation of the Record of Survey is required prior to issuance of any grading and/or building permit for this site, developer shall furnish City with the Mylar of the recorded Record of Survey and a digital format submission (AutoCAD Format preferred).
2. Prior to or at the time of any building permit issuance for any of Parcels 1, 2, or 5, the developer shall obtain design approval and bond for all necessary public improvements along El Camino Higuera roadway, including but not limited to curb and gutter, pavement, sidewalk, signage and striping, street lights, fire hydrants, storm drain, sewer and water services. Prior to any building permit occupancy issuance, developer shall construct all subject improvements to the satisfaction of the City engineer.
3. Prior to or at the time of any building permit issuance for any of Parcels 1, 2, or 5, the developer shall record a reciprocal easement and maintenance agreement concurrent with the recordation of Certificate of compliance. The reciprocal agreement shall provide for the use of lands and maintenance of all private utility facilities including but not limited to, shared access driveway, drainage, sewer, water, landscaping, walls and other common area facilities.
4. Prior to or at the time of any building permit issuance for any of Parcels 1, 2, or 5, the developer shall dedicate necessary public service utility easements, street easements and

easements for water and sanitary sewer purposes along El Camino Higuera, as shown on the map attached as Exhibit "A".

5. Prior to or at the time of any building occupancy permit issuance for any of Parcels 1, 2, or 5, the developer shall underground all existing wires on the utility poles from the New Pole (Riser) to Pole #1, with utility poles number 1, 2 and 3 be removed, as shown on the map attached as Exhibit "A", with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be put underground. All proposed utilities shall also be underground.

The following Parcels, shown as Parcels 3 and 4 shall be subject to the following condition:

"Prior to or at the time of any permit issuance for either of Parcels 3 or 4, the developer shall have the property surveyed and monumented by a Registered Land Surveyor (or qualified Civil Engineer). A record of survey bearing a Certificate of Compliance, signed by the City Engineer, shall be filed with the County Surveyor. Recordation of the Record of Survey is required prior to issuance of any grading and/or building permit for this site, developer shall furnish City with the Mylar of the recorded Record of Survey and a digital format submission (AutoCAD Format preferred)."

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances pursuant thereto. The parcels described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcels may require issuance of a permit or permits, or other grant or grants of approval.

Date: \_\_\_\_\_

Approved By: \_\_\_\_\_  
Charles Lawson, City Manager

ACKNOWLEDGEMENT BY CITY ATTORNEY UNDER CIVIL CODE SECTION 1181

City of Milpitas  
County of Santa Clara  
State of California

On this \_\_\_\_ day of \_\_\_\_\_, 2005, before me, Steve T. Mattas, City Attorney of the City of Milpitas, California, personally appeared Charles Lawson, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed this instrument as Interim City Manager of the City of Milpitas, and acknowledged to me that the City of Milpitas executed it.

\_\_\_\_\_  
Steve T. Mattas, City Attorney

## EXHIBIT "A"

All that certain real property situate in the City of Milpitas, County of Santa Clara, State of California, described as follows:

### PARCEL ONE:

BEGINNING at a fence post at the most Westerly corner of that certain 18.52 acre tract of land conveyed by Henry Curtner to Victorino Antonio de Silvera, by Deed dated November 5, 1886 and recorded November 5, 1886 in Book 87 of Deeds, page 59, Santa Clara County Records, and where the fence line between lands of Curtner and lands formerly of Frank S. Gomes intersects the Easterly line of the private road separating said lands of Frank S. Gomes, from the lands now or formerly of Dophna; thence from said point of beginning running along the Southwesterly boundary of said 18.52 acre tract of land and along the Northeasterly line of said private road, South 16° 45' East 3.527 chains to an iron pipe; thence leaving said private road and boundary and running North 59° 09' East 5.384 chains to an iron pipe; thence South 38° 59' East 6.565 chains to an iron pipe on the Southeasterly boundary of said 18.52 acre tract of land; thence along said Southeasterly boundary North 59° 02' East, 2.724 chains to an iron pipe; thence leaving said Southeasterly boundary and running North 38° 59' West 9.232 chains to an iron pipe in the Northwesterly boundary of said 18.52 acre tract of land and fence line between said lands of Curtner and Frank S. Gomes; thence along said fence line and Northwesterly boundary South 65° 38' West 6.914 chains to the point of beginning, containing 4.049 acres of land, more or less, and being a portion of said 18.52 acre tract in the Rancho Los Tularcitos.

### PARCEL TWO:

BEGINNING at an iron pipe in the Southwesterly boundary of that certain 18.52 acre tract of land conveyed by Henry Curtner to Victorino Antonio de Silvera, by Deed dated November 5, 1886 and recorded November 5, 1886 in Book 87 of Deeds, page 59, Santa Clara County Records, distant thereon South 16° 45' East 3.527 chains from a fence post at the most westerly corner of said 18.52 acre tract where the fence line between lands of Curtner and land formerly of Frank S. Gomes intersects the Easterly line of the private road separating said land of Frank S. Gomes from land now or formerly of Dophna; thence from said point of beginning running along the Southwesterly boundary of said 18.52 acre tract of land and the Northeasterly line of said private road South 16° 45' East 0.473 of a chain and South 38° 45' East 3.544 chains to an iron pipe; thence leaving said boundary and said private road North 59° 02' East 5.575 chains to an iron pipe; thence North 38° 59' West 4.009 chains to an iron pipe; thence South 59° 09' West, 5.384 chains to the point of beginning, containing 2.207 acres of land, more or less, and being a portion of said 18.52 acre tract of land in the Rancho Los Tularcitos.

### PARCEL THREE:

BEGINNING at an iron pipe in the Southwesterly boundary of that certain 18.52 acre tract of land conveyed by Henry Curtner to Victorino Antonio de Silvera by Deed dated November 5, 1886 and recorded November 5, 1886 in Book 87 of Deeds, page 59, Santa Clara County Records, distant thereon South 16° 45' East 4.00 chains and South 38° 45' East 3.544 chains from a fence post at the most Westerly corner of said 18.52 acre tract of land where the fence line between lands of Curtner and lands formerly of Frank S. Gomes intersects the Easterly line of the private road separating said lands of Frank S. Gomes from land now or formerly of Dophna; thence from said point of beginning running along the Southwesterly line of said 18.52 acre tract of land and along the Northeasterly line of said private road South 38° 45' East 2.556 chains to an iron pipe at the most Southerly corner of said 18.52 acre tract of land; thence leaving said private road and running along the Southeasterly boundary of said 18.52 acre tract of land, North 59° 02' East 5.585 chains to an iron pipe; thence leaving said Southeasterly boundary

North 38° 59' West 2.556 chains to an iron pipe; thence South 59° 02' West 5.575 chains to the point of beginning, containing 1.414 acres of land, more or less, and being a portion of said 18.52 acre tract of land in the Rancho Los Tularcitos.

**PARCEL FOUR:**

BEGINNING at an iron pipe in the Southeasterly boundary line of that certain 18.52 acre tract of land conveyed by Henry Curtner to Victorino Antonio de Silvera by Deed dated November 5, 1886 and recorded November 5, 1886 in Book 87 of Deeds, page 59, Santa Clara County Records, distant thereon North 59° 02' East 8.309 chains from an iron pipe at the most Southerly corner of said 18.52 acre tract of land; thence along the Southeasterly boundary of said 18.52 acre tract of land North 59° 02' East 13.426 chains to the East side of private road; thence along the East side of said private road North 39° 50' West 2.89 chains and North 32° 10' West 1.153 chains; thence leaving the East side of said private road South 58° 52' West 13.548 chains to an iron pipe; thence South 38° 59' East 4.024 chains to the point of beginning, containing 5.40 acres of land, more or less, and being a portion of said 18.52 acre tract of land in the Rancho Los Tularcitos.

**PARCEL FIVE:**

BEGINNING at an iron pipe in the Northwesterly boundary of that certain 18.52 acre tract of land conveyed by Henry Curtner to Victorino Antonio de Silvera by Deed dated November 5, 1886 and recorded November 5, 1886 in Book 87 of Deeds, page 59, Santa Clara County Records and in the fence line between lands of Curtner and land formerly of Frank S. Gomes, distant thereon North 65° 38' East 6.914 chains from a fence post at the most Westerly corner of said 18.52 acre tract of land where said fence line between said lands of Curtner and Gomes intersects the Easterly line of the private road separating said land of Frank S. Gomes from lands now or formerly of Dophna; thence from said point of beginning leaving the Northwesterly boundary of said 18.52 acre tract of land South 38° 59' East 5.208 chains to an iron pipe; thence North 58° 52' East 13.548 chains to the East side of a private road; thence along the East side of said private road North 32° 10' West 3.477 chains to the corner common for said lands of Curtner and Gomes and lands now or formerly of Silva; thence along the Northwesterly line of said 18.52 acre tract of land and fence line between said lands of Curtner and Gomes, South 65° 38' West 14.266 chains to the point of beginning, containing 5.98 acres of land, more or less, and being a portion of said 18.52 acre tract of land of the Rancho Los Tularcitos

EXCEPTING THEREFROM that portion of land described in the deed from W. Ray Anderson, et ux, recorded April 11, 1966 in Book 7341 of Official Records, page 700, Santa Clara County Records, described as follows:

BEGINNING at the Northwesterly corner of that certain 4.049 acre tract of land described as Parcel One in the Deed to Sal M. Cracolice, et al, recorded April 16, 1964 in Book 6466 Official Records, page 565; thence from said point of beginning North 65° 31' 30" East along the Northerly line of said 4.049 acre tract of land 200.00 feet to the true point of beginning of the tract of land to be described; thence from said true point of beginning North 65° 31' 30" East along the Northerly line of said 4.049 acre tract of land 249.00 feet; thence leaving said last mentioned line and running South 9° 51' 30" East 180.85 feet; thence South 65° 31' 30" West and parallel with the Northerly line of said 4.049 acre tract of land 249.00 feet; thence North 9° 51' 30" West 180.85 feet to the true point of beginning; containing approximately 1.0003 acres of land and shown on that certain Map entitled, Record of Survey for S. Cracolice recorded May 17, 1965 in Book 19 of Maps, at page 36.

ALSO EXCEPTING THEREFROM that portion of land described in the Deed from Sal M. Cracolice, et al, recorded January 6, 1967 in Book 7607 Official Records, page 43, Santa Clara County Records, described as follows:

BEGINNING at the Northwesterly corner of that certain 4.049 acre tract of land described as Parcel One in the Deed from Mary Silveria to Sal M. Cracolice, et al, dated April 14, 1964, recorded April 16, 1964 in Book 6466 Official Records, page 565, Santa Clara County Records, in the Easterly line of that certain 30 foot easement described in the Deed from Marion Curtner Weller to Sal M. Cracolice, et al, dated March 8, 1965, recorded March 29, 1965 in Book 6899 Official Records, page 132, Santa Clara County Records; thence from said point of beginning North 65° 31' 30" East along the Northerly line of said 4.049 acre tract for a distance of 200.00 feet to the Northwesterly corner of that certain 1.0003 acre tract of land described as Parcel One in the Deed from W. Ray Anderson, et ux, to Sal M. Cracolice, et ux, dated April 6, 1966, recorded April 11, 1966 in Book 7341 Official Records, page 700, Santa Clara County Records; thence South 9° 51' 30" East along the Westerly line of said 1.0003 acre tract and its Southerly prolongation for a distance of 205.00 feet to a 3/4 inch iron pipe; thence South 63° 48' 10" West 172.19 feet to a 3/4 inch iron pipe set in the said Easterly line of the 30 foot easement above referred to; thence along said Easterly line of the 30 foot easement for the two following courses and distances: North 19° 47' 20" West 73.52 feet and North 16° 40' 40" West 131.48 feet to the point of beginning.

FURTHER EXCEPTING THEREFROM that portion of Land contained in the Deed from Sal M. Cracolice, et ux, recorded March 17, 1967 in Book 7667 Official Records, page 671, Santa Clara County Records, described as follows:

BEGINNING at the Northwesterly corner of that certain 4.049 acre tract of land described as Parcel One in the deed from Mary Silveria to Sal M. Cracolice, et al, dated April 14, 1964, recorded April 16, 1964 in Book 6466 Official Records, page 564, Santa Clara County Records, the Northeasterly line of that certain 30 foot easement described in the Deed from Marion Curtner Weller to Sal M. Cracolice, et al, dated March 8, 1965, recorded March 29, 1965 in Book 6899 Official Records, page 132, Santa Clara County Records; thence from said point of beginning North 65° 31' 30" East along the Northerly line of said 4.049 acre tract for a distance of 449.00 feet and the true point of beginning of the tract of land to be described; thence from said true point of beginning North 65° 31' 30" East along said Northerly line of the 4.049 acre tract and the Northerly line of that certain 5.98 acre tract of land described as Parcel Five in the Deed to said Cracolice firstly above referred to for a distance of 249.00 feet; thence South 9° 51' 30" East 180.85 feet; thence South 65° 31' 30" West and parallel with the said Northerly line of the 5.98 acre tract and the Northerly line of said 4.049 acre tract for a distance of 249.00 feet to the point of intersection thereof with the Easterly line of that certain 1.003 acre tract of land described as Parcel One in the Deed from W. Ray Anderson et ux, to Sal M. Cracolice, et ux, dated April 6, 1966, recorded April 11, 1966 in Book 7341 Official Records, page 700, Santa Clara County Records; thence North 9° 51' 30" West along said Easterly line of the 1.003 acre tract for a distance of 180.85 feet to the true point of beginning, and being a portion of the Rancho Los Tularcitos.

And further excepting therefrom all that portion of land being described as follows:

Beginning at the Northwesterly corner of that certain 4.049 acre Tract of land described as Parcel One in the deed to Sal M. Cracolice, et al, recorded April 16, 1964 Book 6466 Official Records, page 565; thence from said point of beginning North 65° 38' 00" East 449.00 feet; thence leaving last said line South 9° 45' 00" East 180.85 feet to the true point of beginning of the Parcel of land to be described; thence from said true point of beginning South 37° 23' 37" East 91.06 feet; thence South 60° 12' 42" West 155.81 feet; thence North 62° 45' 54" West 131.98 feet; thence North 65° 38' 00" East and parallel with the Northerly line of said 4.049 acre tract of land 216.57 feet to the true point of Beginning.

NOTE: BOUNDARIES AND EASEMENTS DEPICTED HEREON HAVE BEEN TRANSCRIBED FROM THE DOCUMENTS REFERENCED BELOW. PORTIONS OF THESE MAY HAVE BEEN REORIENTED TO FIT TOGETHER.

TITLE REPORTS  
ALLIANCE TITLE COMPANY, order # 11273441-007-WM, dated AUGUST 3, 2004  
APN 029-02-015, vesting deed: Doc 11110957 (L909 O.R. 1755), Oct. 30, 1991

PARCELS, APPURTENANT EASEMENTS & EXCEPTIONS FROM TITLE:

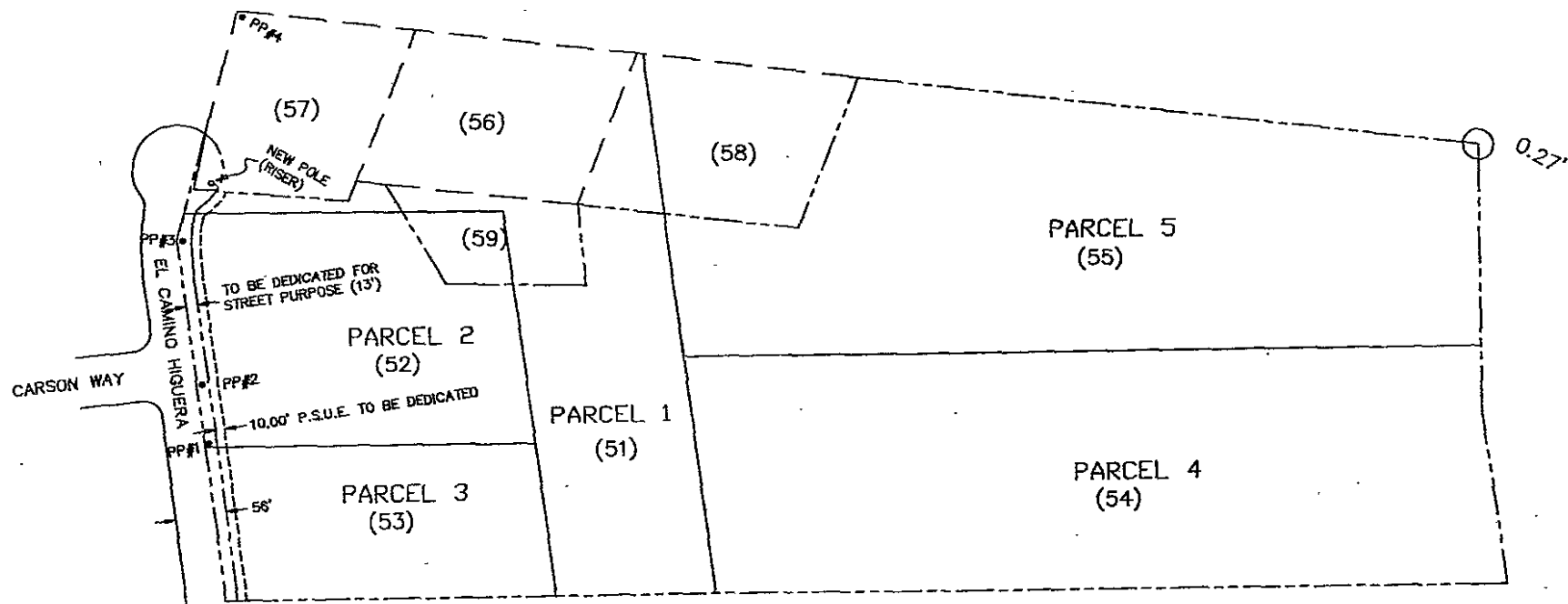
- (51) PARCEL ONE of the legal description (misclosure = 0.39')
- (52) PARCEL TWO of the legal description (misclosure = 0.77')
- (53) PARCEL THREE of the legal description (misclosure = 0.10')
- (54) PARCEL FOUR of the legal description (misclosure = 2.26')
- (55) PARCEL FIVE of the legal description (misclosure = 1.98')
- (56) first exception of the legal description
- (57) second exception of the legal description
- (58) third exception of the legal description
- (59) fourth exception of the legal description

EXCLUSIONS FROM COVERAGE: NOT COMPLETE - ADD ESMTS

OTHER RECORD REFERENCES:  
(61) 456 M 25, Tract 6569

BASIS OF BEARINGS & COORDINATE SYSTEM  
North 37°26'43" West, mon line of El Camino Higuera per (61) above.  
Arbitrary coordinate system.

COMMENTARY:  
rotated (51) thru (55) to BOB  
rotated exceptions to northwesterly line of (55)



Date: 08-23-04  
Scale: NTS  
Designed:  
Drawn: AH

San Jose  
City of San Jose  
City Engineer  
City of San Jose

EXHIBIT "A"

Sheet 1  
Of 1 Sheets  
JOB NUMBER  
11110957

## **FINDINGS AND RECOMMENDED CONDITIONS OF APPROVAL**

### **CERTIFICATE OF COMPLIANCE (P-CC2005-1)**

Application for a Certificate of Compliance to legalize five hillside parcels.  
El Camino Higuera (APN: 029-02-015)

### **FINDINGS FOR APPROVAL**

1. The Certificate of Compliance will bring the parcels into conformance with the Subdivision Map Act and will become legal lots of record.
2. The lots and all conditions of approval, is in conformance with the City of Milpitas Zoning Ordinance.

### **CONDITIONS OF APPROVAL**

1. Prior to or at the time of any permit issuance for any of Parcels 1, 2, or 5, the developer shall have the property surveyed and monumented by a Registered Land Surveyor (or qualified Civil Engineer). A record of survey bearing a Certificate of Compliance, signed by the City Engineer, shall be filed with the County Surveyor. Recordation of the Record of Survey is required prior to issuance of any grading and/or building permit for this site, developer shall furnish City with the Mylar of the recorded Record of Survey and a digital format submission (AutoCAD Format preferred).
2. Prior to or at the time of any building permit issuance for any of Parcels 1, 2, or 5, the developer shall obtain design approval and bond for all necessary public improvements along El Camino Higuera roadway, including but not limited to curb and gutter, pavement, sidewalk, signage and striping, street lights, fire hydrants, storm drain, sewer and water services. Prior to any building permit occupancy issuance, developer shall construct all subject improvements to the satisfaction of the City engineer.
3. Prior to or at the time of any building permit issuance for any of Parcels 1, 2, or 5, the developer shall record a reciprocal easement and maintenance agreement concurrent with the recordation of Certificate of compliance. The reciprocal agreement shall provide for the use of lands and maintenance of all private utility facilities including but not limited to, shared access driveway, drainage, sewer, water, landscaping, walls and other common area facilities.
4. Prior to or at the time of any building permit issuance for any of Parcels 1, 2, or 5, the developer shall dedicate necessary public service utility easements, street easements and easements for water and sanitary sewer purposes along El Camino Higuera, as shown on the map attached as Exhibit "A".
5. Prior to or at the time of any building occupancy permit issuance for any of Parcels 1, 2, or 5, the developer shall underground all existing wires on the utility poles from the New Pole (Riser) to Pole #1, with utility poles number 1, 2 and 3 be removed, as shown on the map attached as Exhibit "A", with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be put underground. All proposed utilities shall also be underground.

The following Parcels, shown as Parcels 3 and 4 shall be subject to the following condition:

“Prior to or at the time of any permit issuance for either of Parcels 3 or 4, the developer shall have the property surveyed and monumented by a Registered Land Surveyor (or qualified Civil Engineer). A record of survey bearing a Certificate of Compliance, signed by the City Engineer, shall be filed with the County Surveyor. Recordation of the Record of Survey is required prior to issuance of any grading and/or building permit for this site, developer shall furnish City with the Mylar of the recorded Record of Survey and a digital format submission (AutoCAD Format preferred).”

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances pursuant thereto. The parcels described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcels may require issuance of a permit or permits, or other grant or grants of approval.



NOTE: BOUNDARIES AND EASEMENTS DEPICTED HEREON HAVE BEEN TRANSCRIBED FROM THE DOCUMENTS REFERENCED BELOW. PORTIONS OF THESE MAY HAVE BEEN REORIENTED TO FIT TOGETHER.

**TITLE REPORTS**

ALLIANCE TITLE COMPANY, order # 11273441-007-WM, dated AUGUST 3, 2004

APN 029-02-015, vesting deed: Doc 11110957 (L909 O.R. 1755), Oct. 30, 1991

**PARCELS, APPURTENANT EASEMENTS & EXCEPTIONS FROM TITLE:**

- (51) PARCEL ONE of the legal description (misclosure = 0.39')
- (52) PARCEL TWO of the legal description (misclosure = 0.77')
- (53) PARCEL THREE of the legal description (misclosure = 0.10')
- (54) PARCEL FOUR of the legal description (misclosure = 2.26')
- (55) PARCEL FIVE of the legal description (misclosure = 1.98')
- (56) first exception of the legal description
- (57) second exception of the legal description
- (58) third exception of the legal description
- (59) fourth exception of the legal description

EXCLUSIONS FROM COVERAGE: NOT COMPLETE - ADD ESMTS

**OTHER RECORD REFERENCES:**

(61) 456 M 25, Tract 6569

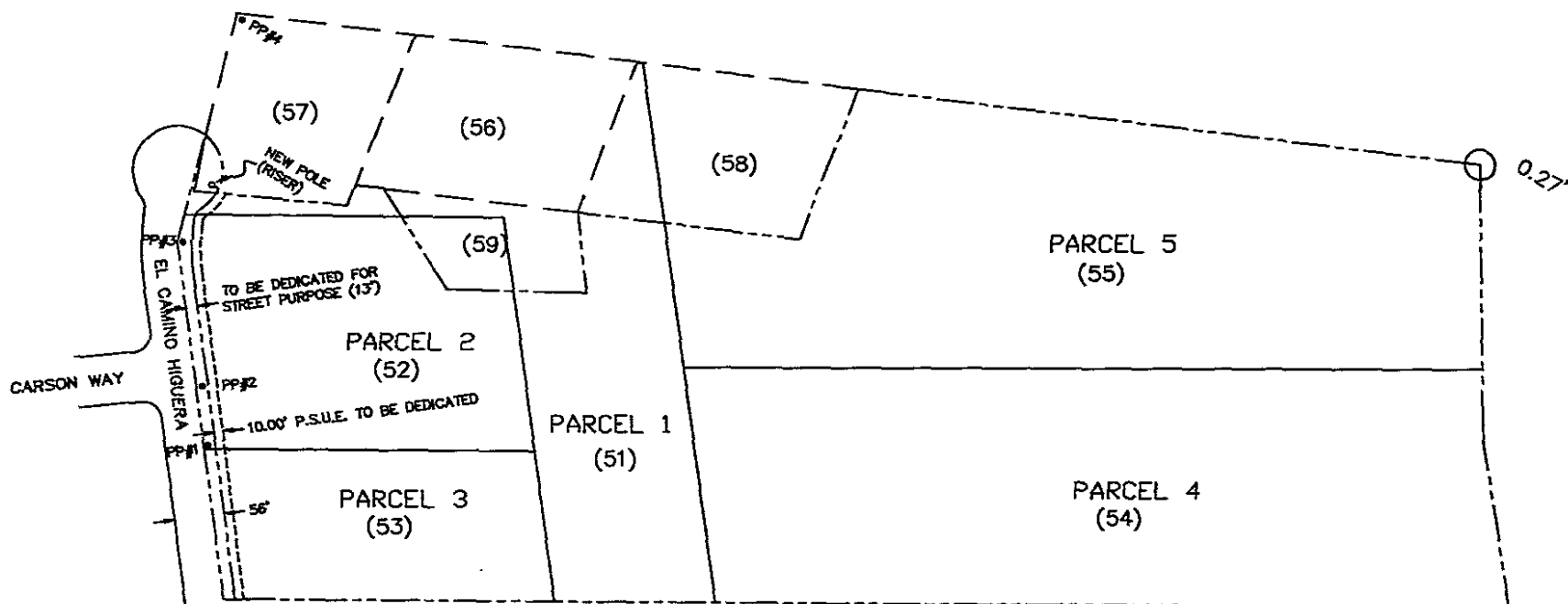
**BASIS OF BEARINGS & COORDINATE SYSTEM**

North 37°28'43" West, mon line of El Camino Higuera per (61) above.  
Arbitrary coordinate system.

**COMMENTARY:**

rotated (51) thru (55) to BOB

rotated exceptions to northwesterly line of (55)



BY	DATE	REVISION

Date: 08-22-04  
 Draft: NTS  
 Drawn: JMS  
 Checked: JMS  
 Project: 029-02-015  
 File: 029-02-015



San Jose  
 Engineers  
 1000  
 1000

EXHIBIT 'A'

Sheet 1  
 Of 1 Sheets  
 JOB NUMBER  
 3373-00

LICENSED IN CALIFORNIA  
AND MINNESOTA

PHONE (408) 448-4448  
FAX (408) 487-3295

May 26, 2005

The Honorable Jose Esteves and  
Councilmembers  
City Council  
City Of Milpitas  
455 East Calaveras Blvd.  
Milpitas, CA 95035

*RE: Request for Certificates of Compliance  
APN No. 029-02-015 (Five Parcels)*

Dear Mayor Esteves and Councilmembers:

On behalf of Phyllis Anderson and pursuant to Section XI-1-18.07(a) of the City of Milpitas Municipal Code, and Sections 66499.34 and 66499.35 of the State Subdivision Map Act (Gov. Code §§ 66410-66499.37), we hereby request that the City issue Certificates of Compliance for each of the five parcels of real property described below.

As required by the City Planning Department, we hereby enclose the following items:

- (1) The completed Planning and Zoning Application form;
- (2) A Private Job Development Authorization form, and a \$2,000 deposit;
- (3) A total of 26 sets of the site plan;
- (4) A current Title Report;
- (5) A chain of title;
- (6) A list of property owners;
- (7) A completed and signed Affidavit of Notification and Mailing; and

- (8) One set of stamped, addressed business size envelopes for all property owners and residential renters within 300 feet of the property.

*1. Background of Property*

In 1938, Maria Gomes divided her 18.52-acre parcel into five parcels and conveyed them to Mary Cruttenden (Parcel 1), Eleanor Pharris (Parcel 2), George Gomes (Parcel 3), Louie Gomes (Parcel 4), and Joe Gomes (Parcel 5). Those parcels are described in the current deed as Parcels 1-5 (See Exhibit A). These parcels are depicted on the attached Map (Exhibit B) as follows:

Parcel 1 (Blue), designated "51" on Map, was 4.049 acres<sup>1</sup>  
Parcel 2 (Orange), designated "52" on Map, was 2.207 acres  
Parcel 3 (Yellow), designated "53" on Map, was and remains 1.414 acres  
Parcel 4 (Purple), designated "54" on Map, was and remains 5.40 acres  
Parcel 5 (Green), designated "55" on Map, was 5.98 acres

In 1949, Eleanor Pharris sold Parcel 2 to Joseph Gomes.

In 1951, Frank and Mary Silveria purchased each of these five parcels from the respective owners.

In 1964, the applicant, Phyllis Anderson, and her husband Ray Anderson together with Salvador and Dorothy Cracolice, purchased each of the five parcels from Mary Silveria.

In 1966, a lot was created in a portion of Parcel 1 for a single-family residence. Salvador and Dorothy Cracolice purchased this lot and built a house. (See Lot designated "56" on the Map).

In 1967, another lot was created in a portion of Parcel 1 for a single-family residence. Victor and Norma Bravo purchased this lot and built a house. (See Lot designated "57" on the Map).

In 1967, a lot was created in a portion of Parcels 1 and 5 for a single-family residence. In 1969, Lawrence and Marie Chong purchased this lot and built a house. (See Lot designated "58" on the Map).

In 1986, a lot line adjustment was made to expand Lot 56 to include a portion of Parcels 1 and 2. This area had been used by Salvador Cracolice for a garden and he wanted it to become a part of his Lot 56. The area added in the lot line adjustment is designated as "59" on the Map.

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<sup>1</sup> The size of three of the five parcels was changed when subsequent lots were created more than 25 years later to build three houses. See discussion below.

2. *Pursuant to Government Code 66499.35, the City must Issue Certificates of Compliance for Each of the Five Parcels Created in 1938*

Government Code section 66499.35(a) provides in relevant part:

"Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant to this division. If a local agency determines that the real property complies, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located."

Subsection (b) of 66499.35 further states:

"If a local agency determines that the real property does not comply with the provisions of [the Subdivision Map Act ("SMA")] or of local ordinances enacted pursuant thereto, it shall issue a certificate of compliance or a conditional certificate of compliance. A local agency may, as a condition to granting a certificate of compliance, impose any conditions which would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which had been established at that time by [the SMA] or local ordinance enacted pursuant thereto ...."

We are unaware of any non-compliance with the SMA or local ordinances in the creation of these parcels in 1938. Therefore, we request that the City issue unconditional certificates of compliance for each of the five parcels.

In the event that the City determines that the creation of these parcels do not comply with the SMA or some local ordinance, then it can only impose conditions that would have been in effect in 1964, the date which Ms. Anderson acquired the parcels.

In addition, the fact that the five distinct parcels have been described in a single deed does not result in a consolidation or merger. Civil Code section 1093 provides:

"Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance or security documents, into a subsequent single deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document (whether by means of an individual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one

previously separate and distinct legal description), does not operate in any manner to alter or affect the separate and distinct nature of the real property so described in the subsequent single instrument of conveyance or security document containing either the listing of or the consolidated legal description of the parcels so conveyed or secured thereby. This section does not constitute a change in, but is declaratory of, the existing law."

3. *Conclusion.*

The enclosed documentation shows that the applicant has complied with all legal requirements for issuance of a Certificate of Compliance for each of the five parcels. Although the Milpitas Municipal Code and your Planning Staff indicate that Certificates of Compliance are subject to review and approval by this Council, please note that issuance of a Certificate of Compliance is a ministerial act, and therefore does not involve the exercise of discretion. *Findleton v. Board of Supervisors*, 12 Cal.App.4<sup>th</sup> 709, 713 (1993). We therefore respectfully request that the City act promptly on this application.

Thank you for this opportunity to present this information. We look forward to working with you toward the issuance and recordation of the requested Certificates of Compliance. If you have any questions, please feel free to call me at (408) 448-4448 or (408) 451-8444.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bradley Smith", written in a cursive style.

Bradley Smith

Enclosures

LAW OFFICE OF  
BRADLEY SMITH

LICENSED IN CALIFORNIA  
AND MINNESOTA

PHONE (408) 448-4448  
FAX (408) 487-3295

May 26, 2005

The Honorable Jose Esteves and  
Councilmembers  
City Council  
City Of Milpitas  
455 East Calaveras Blvd.  
Milpitas, CA 95035

*RE: Request for Certificates of Compliance  
APN No. 029-02-015 (Five Parcels)*

Dear Mayor Esteves and Councilmembers:

On behalf of Phyllis Anderson and pursuant to Section XI-1-18.07(a) of the City of Milpitas Municipal Code, and Sections 66499.34 and 66499.35 of the State Subdivision Map Act (Gov. Code §§ 66410-66499.37), we hereby request that the City issue Certificates of Compliance for each of the five parcels of real property described below.

As required by the City Planning Department, we hereby enclose the following items:

- (1) The completed Planning and Zoning Application form;
- (2) A Private Job Development Authorization form, and a \$2,000 deposit;
- (3) A total of 26 sets of the site plan;
- (4) A current Title Report;
- (5) A chain of title;
- (6) A list of property owners;
- (7) A completed and signed Affidavit of Notification and Mailing; and

- (8) One set of stamped, addressed business size envelopes for all property owners and residential renters within 300 feet of the property.

*1. Background of Property*

In 1938, Maria Gomes divided her 18.52-acre parcel into five parcels and conveyed them to Mary Cruttenden (Parcel 1), Eleanor Pharris (Parcel 2), George Gomes (Parcel 3), Louie Gomes (Parcel 4), and Joe Gomes (Parcel 5). Those parcels are described in the current deed as Parcels 1-5 (See Exhibit A). These parcels are depicted on the attached Map (Exhibit B) as follows:

Parcel 1 (Blue), designated "51" on Map, was 4.049 acres<sup>1</sup>  
Parcel 2 (Orange), designated "52" on Map, was 2.207 acres  
Parcel 3 (Yellow), designated "53" on Map, was and remains 1.414 acres  
Parcel 4 (Purple), designated "54" on Map, was and remains 5.40 acres  
Parcel 5 (Green), designated "55" on Map, was 5.98 acres

In 1949, Eleanor Pharris sold Parcel 2 to Joseph Gomes.

In 1951, Frank and Mary Silveria purchased each of these five parcels from the respective owners.

In 1964, the applicant, Phyllis Anderson, and her husband Ray Anderson together with Salvador and Dorothy Cracolice, purchased each of the five parcels from Mary Silveria.

In 1966, a lot was created in a portion of Parcel 1 for a single-family residence. Salvador and Dorothy Cracolice purchased this lot and built a house. (See Lot designated "56" on the Map).

In 1967, another lot was created in a portion of Parcel 1 for a single-family residence. Victor and Norma Bravo purchased this lot and built a house. (See Lot designated "57" on the Map).

In 1967, a lot was created in a portion of Parcels 1 and 5 for a single-family residence. In 1969, Lawrence and Marie Chong purchased this lot and built a house. (See Lot designated "58" on the Map).

In 1986, a lot line adjustment was made to expand Lot 56 to include a portion of Parcels 1 and 2. This area had been used by Salvador Cracolice for a garden and he wanted it to become a part of his Lot 56. The area added in the lot line adjustment is designated as "59" on the Map.

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<sup>1</sup> The size of three of the five parcels was changed when subsequent lots were created more than 25 years later to build three houses. See discussion below.

2. *Pursuant to Government Code 66499.35, the City must Issue Certificates of Compliance for Each of the Five Parcels Created in 1938*

Government Code section 66499.35(a) provides in relevant part:

"Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant to this division. If a local agency determines that the real property complies, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located."

Subsection (b) of 66499.35 further states:

"If a local agency determines that the real property does not comply with the provisions of [the Subdivision Map Act ("SMA")] or of local ordinances enacted pursuant thereto, it shall issue a certificate of compliance or a conditional certificate of compliance. A local agency may, as a condition to granting a certificate of compliance, impose any conditions which would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which had been established at that time by [the SMA] or local ordinance enacted pursuant thereto ...."

We are unaware of any non-compliance with the SMA or local ordinances in the creation of these parcels in 1938. Therefore, we request that the City issue unconditional certificates of compliance for each of the five parcels.

In the event that the City determines that the creation of these parcels do not comply with the SMA or some local ordinance, then it can only impose conditions that would have been in effect in 1964, the date which Ms. Anderson acquired the parcels.

In addition, the fact that the five distinct parcels have been described in a single deed does not result in a consolidation or merger. Civil Code section 1093 provides:

"Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance or security documents, into a subsequent single deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document (whether by means of an individual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one



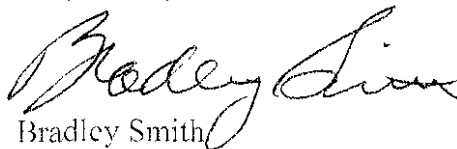
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bradley Smith", written in a cursive style.

Bradley Smith

Enclosures

337300SV\3373RB01.dwg

TG, 9-22-04

NOTE: BOUNDARIES AND EASEMENTS DEPICTED HEREON HAVE BEEN TRANSCRIBED FROM THE DOCUMENTS REFERENCED BELOW. PORTIONS OF THESE MAY HAVE BEEN REORIENTED TO FIT TOGETHER.

**TITLE REPORTS**

ALLIANCE TITLE COMPANY, order # 11273441-007-WM, dated AUGUST 3, 2004

APN 029-02-015, vesting deed: Doc 11110957 (L909 O.R. 1755), Oct. 30, 1991

**PARCELS, APPURTENANT EASEMENTS & EXCEPTIONS FROM TITLE:**

- (51) PARCEL ONE of the legal description (misclosure = 0.39')
- (52) PARCEL TWO of the legal description (misclosure = 0.77')
- (53) PARCEL THREE of the legal description (misclosure = 0.10')
- (54) PARCEL FOUR of the legal description (misclosure = 2.26')
- (55) PARCEL FIVE of the legal description (misclosure = 1.98')
- (56) first exception of the legal description
- (57) second exception of the legal description
- (58) third exception of the legal description
- (59) fourth exception of the legal description

EXCLUSIONS FROM COVERAGE: NOT COMPLETE - ADD ESMTS

**OTHER RECORD REFERENCES:**

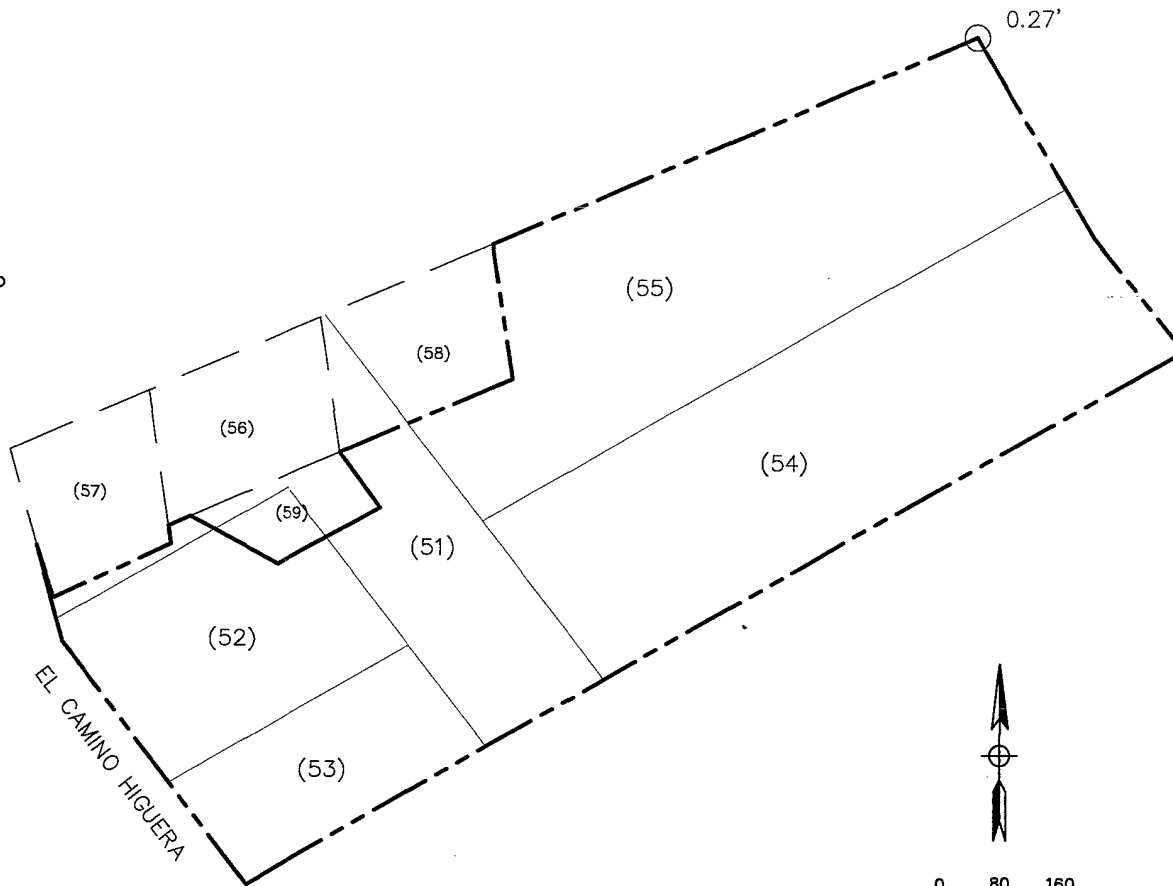
(61) 456 M 25, Tract 6569

**BASIS OF BEARINGS & COORDINATE SYSTEM**

North 37°26'43" West, mon line of El Camino Higuera per (61) above.  
Arbitrary coordinate system.

**COMMENTARY:**

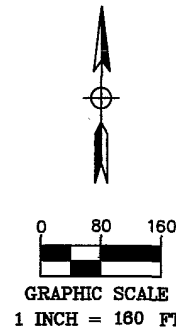
rotated (51) thru (55) to BOB  
rotated exceptions to northwesterly line of (55)



RECEIVED

MAY 27 2005

CITY OF ALBERTA  
PLANNING DIVISION



BY	DATE	REVISIONS

Date: 09-23-04  
Scale: 1" = 160'  
Designed: C  
Drawn: AH  
Checked: SMD  
Proj. Engr: -  
File: 3373RB01



San Jose  
(408) 427-8888  
Gilroy  
(408) 427-8888  
www.hmm-engineers.com

RECORD BOUNDARY

Sheet  
1  
Of 1 Sheets  
JOB NUMBER  
3373-00